IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.V.K.BALI

WEDNESDAY, THE 29TH NOVEMBER 2006 / 8TH AGRAHAYANA 1928

Crl.Rev.Pet.No.242 of 1999

CRL.A.NO.226/1994 OF THE COURT OF THE ADDITIONAL SESSIONS JUDGE, KOTTAYAM.

C.C.NO.382/1992 OF THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-I, KANJIRAPPALLY.

.....

REVISION PETITIONER/ACCUSED/APPELLANT:-

T.C.JOSEPH, HEADMASTER,
C.M.S.L.P.SCHOOL, MUNDAKAYAM.

BY ADV. SRI.M.J.THOMAS

RESPONDENTS/RESPONDENTS/STATE & COMPLAINANT:-

---

1. THE STATE OF KERALA,
   REPRESENTED BY THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA AT ERNAKULAM.

2. JOSEPH JOHN, MANJANANICKAL, MUNDAKAYAM, KOTTAYAM.

R1 BY PUBLIC PROSECUTOR SRI.P.RAVINDRA BABU.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 29/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.K.Bali,C.J.

Crl.R.P.No.242 of 1999

Dated, this the 29th day of November, 2006

ORDER

V.K. Bali, CJ. (Oral):

The petitioner has been held guilty under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.3,000/- and in default of payment of fine, to undergo rigorous imprisonment for two months. It was also provided that in case of realisation of fine, Rs.2,000/- was to be paid to the complainant as would be clear from the order dated 30th November, 1994 passed by the Judicial First Class Magistrate-I, Kanjirappally. On appeal, even though the conviction of the petitioner under Section 138 of the Act of 1881 was maintained, sentence was reduced. The petitioner has been sentenced to pay a fine of Rs.15,000/- and in default to undergo rigorous imprisonment for a period of six months. It was provided in the order aforesaid to pay an amount of Rs.12,000/- to the complainant in the event of realisation of fine, as would be clear from the order dated 5th February, 1999 passed by the Additional Sessions Judge, Kottayam. It is against these two orders that the

present revision has been filed.

2. Nothing at all has been urged on the merits of the case. The learned counsel representing the petitioner, however, contends that this is an old matter and the petitioner is prepared to pay the cheque amount and the petitioner may not be sent to serve a jail term at this distance of time.

3. I have heard learned counsel for the parties and with their assistance, examined the records of the case. The petitioner cannot simply pay the same amount covered by the cheque at this stage and still ask for no punishment at all. He has been held guilty for the offence in 1994. Considering the facts and circumstances of the case, this Court is of the view that interest of justice would be served if while upholding the order of conviction the petitioner is asked to pay to the 2nd respondent in all an amount of Rs.15,000/- (Rupees fifteen thousand only), i.e. Rs.5,000/- in addition to the cheque amount of Rs.10,000/-. That extra amount of Rs.5,000/- is awarded as punishment to the petitioner and be not sent to jail at this stage. Thus, while maintaining the order of conviction, instead of undergoing the jail

term, the petitioner is directed to pay the amount as mentioned above, within two months from today. If, however, the petitioner may not pay the cheque amount plus the amount of Rs.5,000/- as ordered above, he would serve the sentence recorded by the Additional Sessions Judge, Kottayam.

The revision stands disposed of with the above modification.

V.K.Bali
Chief Justice

vku/-